

REMARKS

The present Amendment is in response to the Office Action mailed January 19, 2007, in the above-identified application. Enclosed herewith is a Petition requesting a three-month extension of time for resetting the deadline for responding to the Office Action from April 19, 2007, to and including July 19, 2007.

In the Office Action, the Examiner noted that claims 9-12 are withdrawn from further consideration in the present application. As noted above, Applicants have cancelled claims 9-12.

In the present Amendment, Applicants have added new claims 13-24. New claims 13-16 depend from independent claim 1. New claim 17 is an independent claim, and new claims 18-24 depend from new claim 17. New claims 13-24 are fully supported by the originally filed specification and add no new matter.

The Examiner rejected claims 1-6 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application Publication No. 2003/0233145 to Landry et al. The Examiner asserts that FIG. 1 of Landry shows an artificial intervertebral disc including first baseplate 12', second baseplate 12'' and a coupling 14 disposed between the baseplates that permits articulation. Referring to FIGS. 1 and 2 of Landry, Applicants note that each implant 10 includes a pair of connectors 14 that extend from opposing lateral sides of the implant, with a large central opening being disposed between the connectors 14 and the first and second baseplates 12', 12''. The insertion tools shown in Landry are inserted into a central opening and between the connectors 14.

In contrast, referring to FIG. 1A and FIG. 1H of the present application, an artificial intervertebral disc includes a central coupling 106 (FIG. 1A) that connects the two plates together. The "central coupling" disclosed in the present

application is an entirely different structure than Landry's two lateral connectors 14 that connect the sides of the two plates.

Independent claim 1 is unanticipated by Landry because the reference neither discloses nor suggests an apparatus including an artificial intervertebral disc "wherein the disc comprises at least two baseplates coupled to one another by a central coupling between the baseplates." Claim 1 is also unanticipated because Landry neither discloses nor suggests an apparatus "wherein the tines are spaced and sized to be insertable and fittable between the baseplates . . . to straddle the central coupling during the insertion and when so fitted." Clearly, Landry does not teach an intervertebral disc having a "central coupling" nor does it teach tines that "straddle the central coupling" as required by independent claim 1. For these reasons, independent claim 1 is unanticipated by Landry and is otherwise allowable. Claims 2-6 and 13-16 are unanticipated, *inter alia*, by virtue of their dependence from claim 1, which is unanticipated for the reasons set forth above.

The Examiner rejected claims 7 and 8 under 35 U.S.C. §103(a) as being unpatentable over Landry. In response, Applicants assert that claims 7 and 8 are patentable over Landry, *inter alia*, by virtue of their dependence from claim 1, which is patentable for the reasons set forth above.

New independent claim 17 is unanticipated by Landry because the reference neither discloses nor suggests a system for inserting an artificial intervertebral disc into an intervertebral space with "said artificial intervertebral disc comprising first and second baseplates coupled together by a central coupling extending between said baseplates, wherein said central coupling is centrally located between said baseplates." Independent claim 17 is also unanticipated because Landry neither discloses nor suggests a central coupling that "enables said baseplates to rotate and articulate relative to one

another." Independent claim 17 is also unanticipated because Landry neither discloses nor suggests an insertion tool including a pair of tines whereby "said pair of tines are spaced and sized for insertion between said first and second baseplates for straddling said central coupling so that when said baseplates are substantially non-parallel to one another, insertion of said tines between said baseplates forces said baseplates into a substantially parallel orientation relative to one another." For all of the above reasons, independent claim 17 is unanticipated by Landry and is otherwise allowable. Claims 18-24 are unanticipated, *inter alia*, by virtue of their dependence from claim 17, which is unanticipated for the reasons set forth above.

As it is believed that all of the rejections set forth in the Office Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested Amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: June 22, 2007

Respectfully submitted,

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